

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

ELSMERE PARK CLUB, L.P., a
Delaware limited partnership,

Plaintiff,

v.

TOWN OF ELSMERE, a Delaware
Municipal corporation,
ELLIS BLOMQUIST, EUGENE BONEKER,
and JOHN GILES,

Defendants.

**PLAINTIFF'S MOTION FOR LEAVE TO FILE A SUR-REPLY IN OPPOSITION TO
DEFENDANTS' MOTION TO EXTEND CERTAIN DEADLINES**

Plaintiff Elsmere Park Club, L.P. (“Plaintiff”) seeks leave of Court for permission to file a short Sur-Reply in Opposition to Defendants’ Motion to Extend Certain Deadlines.¹ Plaintiff seeks to respond to assertions that Defendants raised for the first time in their Reply (D.I. 101). In particular:

1. Defendants have now stated in their Reply that they are still today, after the deadline for submitting expert reports, evaluating the need for an expert. This is a new fact which Plaintiff seeks to address in its Sur-Reply.
2. Defendants have now stated in their Reply that they made a calculated decision, at their own risk, to wait until depositions of Plaintiff's experts to decide if they would retain an expert. Plaintiff seeks the opportunity to address this new fact in its proposed Sur-Reply.
3. Defendants have now indicated in their Reply that they previously asked Plaintiff for an extension concerning their expert report, but Defendants never requested an extension of time

¹ Defendants' Motion to Extend Certain Deadlines was filed January 30, 2006. (D.I. 99) Plaintiff's Opposition was filed February 2, 2006. (D.I. 100) Defendants' Reply was filed February 7, 2006. (D.I. 101)

prior to January 30, 2006. Plaintiff seeks the opportunity to address this new factual dispute in its proposed Sur-Reply.

Therefore, Plaintiff respectfully seeks leave to file the Sur-Reply that is attached hereto as Exhibit A.

Dated: February 13, 2006

KLEHR, HARRISON, HARVEY,
BRANZBURG & ELLERS LLP

By: 
David S. Eagle, (Bar No. 3387)
Douglas F. Schleicher, *pro hac vice*
Patrick A. Costello (Bar No. 4535)
919 Market Street, Suite 1000
Wilmington, DE 19801-3062
(302) 426-1189 (Telephone)
(302) 426-9193 (Fax)
deagle@klehr.com
pcostello@klehr.com
Attorneys for Plaintiff